

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

INDYMAC BANK, F.S.B.,
a Federal Savings Bank,

Plaintiff,

V.

GANESAN VISVABHARATHY,
an individual,

Defendant.

Case No. 07 C 6226

Honorable Joan B. Gottschall

**INDYMAC, F.S.B.'s MOTION TO FILE
INSTANTER SURREPLY TO DEFENDANT'S REPLY**

INDYMAC BANK, F.S.B. (“Indymac”), for the reasons stated in its Memorandum of Law in Support hereof, files for this Motion to File a Surreply to Defendant’s GANESAN VISVABHARATHY (“Visvabharathy”) Reply in support of his Motion to Vacate the Court’s Order of Default and Quash Service, in order to respond to a range of new matters raised by Visvabharathy in his Reply, including but not limited to the following which Defendant should have disclosed in his opening brief:

- (1) a new Affidavit from Viswabharathy in which he makes a number of new, unsupported and often contradictory assertions regarding the history of his residences on or about the date of service in this case, but which representations cannot be determined from the face of his new Affidavit;
- (2) Documentary evidence for a previously disclosed purported residence in Illinois as of the date of service;
- (3) an Affidavit from a previously undisclosed witness for whom no information regarding her relationship with Viswabharathy is provided, and who likewise proffers a range of unsupported and contradictory representations that cannot be determined from the face of her affidavit;
- (4) a number of legal assertions for which Viswabharathy offers no authority.

Visvabharathy's raising of these new matters in his reply unfairly prejudices the accuracy of these proceedings by presenting the Court with a one-sided version of events and the law to which Indymac should be permitted to respond.

WHEREFORE, INDYMAC BANK, F.S.B. respectfully requests that the Court grant its Motion Instantly to File a Surreply and Memorandum of Law in Support thereof, and the relief requested therein.

Respectfully submitted,

INDYMAC BANK, F.S.B.

By: /s/ James G. Martignon
One of Its Attorneys

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